

**ZONING BOARD OF APPEALS**

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ZBA 2009-57

Petition of Dana Lee/Lee Imported Cars  
910 Worcester Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 10, 2009 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of DANA LEE/LEE IMPORTED CARS requesting renewal of a Special Permit pursuant to the provisions of Section II A 8 (j), Section XIVE, and Section XXV of the Zoning Bylaw for non-accessory use of off-street parking spaces in the existing parking lot, at 910 WORCESTER STREET, in a Single Residence District and a Water Supply Protection District, which is a use not allowed by right.

On August 25, 2009, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Laurence Shind, Esq., who said that he was representing Dana Lee of Lee Imported Cars (the "Petitioner"). He said that the Petitioner is requesting another one year renewal of a Special Permit that was originally issued by the Board in 2006 and renewed most recently last August. He said that the property is located at 910 Worcester Street, which is the St. James property. He said that the request is for non-accessory parking for up to 40 employee vehicles of Lee Imported Cars.

Mr. Shind said that last year the Board determined that the use of the lot for employee parking would not cause significant disturbance or disruption to any residential neighborhood and would fulfill a public need.

Mr. Shind said that last year's renewal was based on the assumption that no further extensions would be needed. He said that they have been unable to complete the process that they initiated to provide on-site parking for employees. He said that this past year has been very challenging due to the economic downturn. The auto industry has been particularly hard hit. He said that the parking deck proposal has had to take a back seat to the pressing needs of staying afloat during tough financial times.

Mr. Shind said that the Petitioner had filed a Notice of Intent with the Wetlands Protection Committee (WPC) before meeting with the Board last year. A hearing was held with the WPC in June of 2008, which resulted in the implementation of a peer review process designed to vet the technical drainage and stormwater issues on the site. The WPC hired Eggleston Environmental to conduct the peer review. Eggleston issued their preliminary report in February of 2009. He said that the Petitioner's Project Engineer and Environmental Consultant have reviewed the report and had some questions for Eggleston, primarily related to the plan for handling drainage and stormwater runoff. The Project Engineer and Environmental Consultant recently met with the WPC Administrator to decide what the next steps should

be. Based on that conversation, the Project Engineer and Environmental Consultant are preparing a proposal that will address the issues that were raised by the Town's consultant.

Mr. Shind said that they are hopeful of completing the Notice Of Intent (NOI) process with the next few months, which they hope will result in the issuance of an Order of Conditions (O of C) for the parking deck. The Petitioner would then return before the Board for Site Plan Review.

Mr. Shind said that Mr. Lee has spent approximately \$90,000 so far to get the project to this point. He said that Mr. Lee is quite invested in getting the project to completion.

Mr. Shind said that the Planning Board recommended approval of the renewal of the Special Permit.

The Board read a portion of the 2008 decision. The Board said that it had made it very clear that it had no intention to renew the Special Permit again.

The Board said that there have been complaints from neighbors about trash at the back of the parking lot.

The Board asked when the permitting for the parking deck is expected to be completed. Mr. Shind said that the next step is for Mr. Lee to approve the proposal from the consultants, which will allow them to then do the technical work to respond to Eggleston. He said that the proposal should be out within a week. He said that once that is set, it should not take more than a few weeks for the consultants to get the information and get back to Eggleston. He said that once those issues are settled, the Petitioner will prepare an application for Site Plan Approval.

The Board asked about the responsible party for the lot. Mr. Shind said that Lee Imported Cars has a one-year license agreement with Archbishop of Boston that is renewable subject to Zoning Board of Appeals (ZBA) approval. He said that the agreement can be terminated with a 30 day notice. He said that the Real Estate Administrator for the Archdiocese is responsible for the site and Mr. Lee is responsible for his employee parking on the site.

Mr. Shind said that the portion of the lot where the Lee employee parking is paved.

The Board said that the presentation seemed to be focused on the two-story garage and not on why the Board should renew the Special Permit for parking on the lot.

Mr. Shind said that the parking was obtained at the Church because Mr. Lee was not able to fit employee parking on his site. He said that the employee parking at the Church lot was in existence when the bylaw changed to require a Special Permit for parking in a residential zone. The Petitioner came before the Board to express the desire to continue that use. The Board's concern at that time was that Mr. Lee would need to find another location or provide on-site employee parking. He said that the Petitioner's focus then became to build an on-site parking deck.

The Board said that it would not want to renew the Special Permit for more than six months. The Board said that it would impose two additional conditions that the area of the lot where employee parking is taking place be swept monthly and that all of the trash at the rear of the property be cleaned up before the renewal takes effect.

The Board said that the applicant is really the Archdiocese of Boston and they are responsible for cleaning up the trash. He said that the property has to be maintained properly. He said that Mr. Lee was acting on behalf of the Archdiocese.

There was no one present at the Public Hearing who wished to speak to the petition.

#### Statement of Facts

The subject parking lot is located at 910 Worcester Street, in a Residential District and a Water Supply Protection District. The Petitioner is requesting renewal of a Special Permit to allow for non-accessory use for parking of vehicles in its existing parking lot, which is a use not allowed by right.

The designated parking spaces are intended for employee parking during working hours. There are 40 spaces allocated for Lee Imported Cars.

A plot plan, dated 7/31/07, stamped by Frank Iebba, Professional Land Surveyor, was submitted.

On August 31, 2009, the Planning Department staff reviewed the petition and had no objection to granting the request based on the same term and conditions as are currently in effect assuming there has been no change in the circumstances since the time of the last review.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. A Special Permit is required pursuant to Section II A 8 (j) of the Zoning Bylaw, as the requested use of the parking lot for non-accessory off-street parking for employee vehicles in an existing parking lot is not a use allowed by right in a Residential District.

It is the opinion of this Authority that the non-accessory use parking shall not cause significant disturbance or disruption of any residential neighborhood, shall not detract from the use of the parking lot for the accessory use, or reduce landscaping or screening areas. Therefore a Special Permit is granted, subject to the following conditions:

1. Parking shall be limited to business hours only.
2. Parking spaces shall be assigned on a monthly basis only.
3. 40 parking spaces shall be for employee parking for Lee Imported Cars.
4. There shall be no vehicle storage allowed.
5. There shall be no overnight parking.
6. Lee Imported Cars shall be responsible for policing the parking lot for violations. The Special Permit may be revoked if unauthorized vehicles are parked on the property.

7. The lot shall be cleaned up at the rear of the property. A letter shall be submitted to the Board within 30 days of the hearing stating that all trash has been removed from the rear of the property.
8. The parking area that is leased by Lee Imported Cars shall be swept monthly.
9. The Special Permit shall expire six months from the date time-stamped on this decision or earlier if there is a change of use as a closed church.

APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

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Richard L. Seegel, Chairman

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J. Randolph Becker

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David G. Sheffield

cc: Planning Board  
Inspector of Buildings  
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